

STATE OF NEW MEXICO
COUNTY OF OTERO
TWELFTH JUDICIAL DISTRICT COURT

BELLEVUE VALLEY LAND CO., a New
Mexico corporation, and JOHN H. WILLIAMS
and ELLEN B. WILLIAMS, husband and wife,

Plaintiffs,

v.

Cause No. CV-2010-01054
Judge James Waylon Counts

TAMMY SPRAGUE, Personal Representative
of the Estate of FRED VAN WINKLE, Deceased,

Defendant,

And

BRIAN VAN WINKLE and JUDITH A.
VAN WINKLE, husband and wife,

Defendants-in-Intervention.

PETITIONER'S MOTION TO SUBSTITUTE TAMMY SPRAGUE,
BRIAN VAN WINKLE AND HALEY VAN WINKLE AS PETITIONERS

Petitioner, Tammy Sprague, as personal representative of the estate of Fred Van Winkle, through her counsel of record, Law Office of Kyle H. Moberly, P. C., files this Motion to Substitute Tammy Sprague, Brian Van Winkle and Haley Van Winkle as petitioners in this matter. In support of the Motion, Petitioner states as follows:

1. Petitioner assigned the estate's statutory right to redeem the property at issue in this case to Fred Van Winkle's heirs, namely, Tammy Sprague, Brian Van Winkle, and Haley Van Winkle, who provided the funds to redeem the property and are the real parties in interest. As proof

Petitioner's Motion to Substitute
Tammy Sprague, Brian Van Winkle,
and Haley Van Winkle as Petitioners

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of that transfer. Petitioner attaches the Assignment of Right of Redemption as Exhibit A to this Motion.

2. Pursuant to Rule 1-025(C) NMRA, Tammy Sprague, Brian Van Winkle, and Haley Van Winkle are proper parties to this suit and should be substituted as petitioners in this matter in the place of Tammy Sprague in her capacity as personal representative of the estate of Fred Van Winkle.

3. No delay in this action will occur as a result of the substitution of Tammy Sprague, Brian Van Winkle, and Haley Van Winkle as petitioners.

4. Opposing counsel does not concur with this motion.

WHEREFORE, Petitioner requests that the Court substitute Tammy Sprague, in her individual capacity, Brian Van Winkle, and Haley Van Winkle as petitioners in this matter.

Respectfully submitted,

LAW OFFICE OF KYLE H. MOBERLY, P. C.

By: /s/ Kyle H. Moberly
Kyle H. Moberly
State Bar # 245
Attorney for Petitioner
2460 S. Locust Ste. E
Las Cruces, NM 88001
(575) 541-1278

Petitioner's Motion to Substitute
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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2018, the foregoing Petitioner's Motion to Substitute Tammy Sprague, Brian Van Winkle and Haley Van Winkle as Petitioners was filed electronically through the Odyssey File & Serve/Tyler Technology system, which caused Plaintiffs' counsel of record to be served by electronic means.

/s/ Kyle H. Moberly

KYLE H. MOBERLY

Petitioner's Motion to Substitute
Tammy Sprague, Brian Van Winkle,
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ASSIGNMENT OF RIGHT OF REDEMPTION

Assignment by TAMMY SPRAGUE ("Assignor"), as personal representative of the estate of Fred Van Winkle, deceased, to TAMMY SPRAGUE, BRIAN VAN WINKLE and HALEY VAN WINKLE, who are Fred Van Winkle's heirs (collectively, the "Assignees")

WHEREAS, on April 20, 2015, Assignor filed a petition for redemption (the "Petition") of the following described real estate (the "Property") in Otero County, New Mexico, with the Twelfth Judicial District Court of the State of New Mexico (the "Court"), in Cause Number D-1215-CV-2010-01054, pursuant to NMSA 1978 Section 39-5-18 (2007):

A tract of land in the Northeast Quarter (NE ¼) of Section 24, T15S, R9E, NMPM, Otero County, New Mexico, described metes and bounds as follows:

Beginning at the East One-Quarter corner (E ¼) of Section 24 and going S 89°51'38" W along the East/West centerline of said Section 24, a distance of 1525.75 feet; Thence N 00°37'16" W, a distance of 858.92 feet; Thence S 89°50'08" E, a distance of 1531.80 feet; Thence S 00°13'11" E, a distance of 850.76 feet to the said place of beginning.

And

LOT 5, RANCH'S OF RIATA, OTERO COUNTY, NEW MEXICO, as shown on plat Book 65, Page 21, records of Otero County, New Mexico.

And

ANY ADDITIONAL LAND WITHIN THE RANCH'S OF RIATA LESS LOTS 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16

including that certain well and all water rights appurtenant thereto which is located on the above-described property:

and

Assignment of Statutory Right of Redemption
from Estate of Fred Van Winkle to Tammy Sprague,
Brian Van Winkle and Haley Van Winkle

WITNESSETH: I, CLERK OF DISTRICT COURT, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN MY OFFICE.

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Exhibit A

WHEREAS, Assignor's right to redeem the Property arose from the judicial sale of the Property on July 8, 2014, pursuant to the Final Judgment Foreclosing Plaintiffs' Judgment Lien that the Court entered on May 22, 2014;

WHEREAS, on April 22, 2015, Assignor deposited the sum of \$73,200.94 into the Court's registry to redeem the Property (the "Funds");

WHEREAS, Assignees provided the Funds to Assignor;

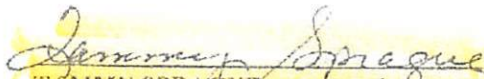
WHEREAS, since Assignees are the real parties in interest, they have requested that Assignor assign to them the estate's statutory right pursuant to NMSA 1978 Section 39-5-18 (2007), to redeem the Property, which Assignor is willing to do.

NOW, THEREFORE, Assignor hereby assigns the estate's statutory right pursuant to NMSA 1978 Section 39-5-18 (2007), to redeem the Property.

Assignor also hereby assigns to Assignees all of the estate's right, title and interest in and to the Funds.

Assignor also hereby assigns to Assignees all of the estate's right, title and interest in and to any claims that the estate may have against the purchaser of the Property for any waste or damage to the Property that has occurred since the purchaser purchased the Property at the judicial sale.

Assignor shall fully cooperate with Assignees in the execution and delivery of such other and further documents as may be reasonably required by Assignees to enforce the statutory right of redemption hereby assigned to them.


TAMMY SPRAGUE, as personal representative of
the Estate of Fred Van Winkle, deceased

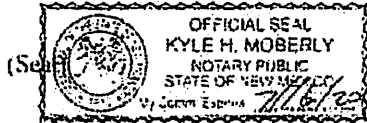
Assignment of Statutory Right of Redemption
from Estate of Fred Van Winkle to Tammy Sprague,
Brian Van Winkle and Haley Van Winkle

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STATE OF NEW MEXICO

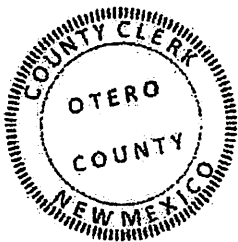
COUNTY OF DOÑA ANA

This instrument was acknowledged before me on August 17, 2018, by Tammy Sprague as personal representative of the estate of Fred Van Winkle, deceased.



[Signature]
Notary Public

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Assignment of Statutory Right of Redemption
from Estate of Fred Van Winkle to Tammy Sprague,
Brian Van Winkle and Haley Van Winkle

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OTERO COUNTY, Robyn Holmes COUNTY CLERK PAGES: 3

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